



Attorney's Docket No. RTEE 2 13410-1

ZFW/AP
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE HONORABLE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: Chartier, et al.
Serial No: 10/764,302
Filed: January 26, 2004
For: Pivoting Jaw Pipe Wrench

Group No: 3723
Examiner: Debra S. Meislin

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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1. Transmitted herewith, in triplicate, is a REPLY BRIEF in this application.
2. STATUS OF APPLICANT
This application is on behalf of other than a small entity.
3. FEE FOR FILING REPLY BRIEF
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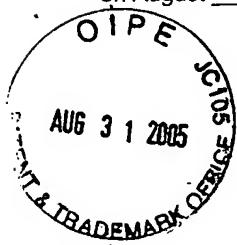
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REPLY BRIEF

Appeal from Group 3723

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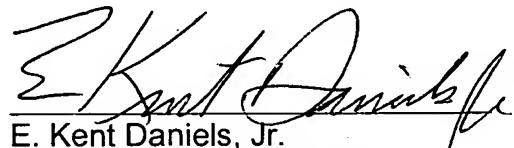
Appellants reply as follows to the Examiner's Answer dated July 7, 2005.

Under Item (10) of the Examiner's Answer entitled Grounds of Rejection, and in the paragraph beginning on page 3 of the Answer in connection with the enlargement of Figure 1 of Gunnarson, the examiner states "Discrete teeth (#1, #2, #3) are pointed out to show at least three of the plurality of discrete teeth wherein each discrete tooth is for engaging one of a plurality of workpieces having different diameters." (Emphasis added). While the examiner asserts that the remaining discrete teeth lie between teeth #1 and #2 and between teeth #2 and #3, Gunnarson does not show the tooth/workpiece engaging relationship at the locations between #1 and #2 and the locations between #2 and #3.

As stated by the Federal Circuit in *In re Bond*, 910 F.2d 831, 832 15 USPQ 2d 1566, 1567 (1990) citing *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677, 7 USPQ 2d 1315, 1317 (Fed. Cir. 1988) "For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference." As further stated by the Federal Circuit in *In re Bond*, citing *Lindemann Maschinenfabrik v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984) "These elements must be arranged as in the claim under review." Appellants' claims on appeal require a discrete tooth for providing just single tooth contact with a different one of each of a plurality of cylindrical workpieces in a progressive sequence of different diameters. Gunnarson discloses cylindrical workpieces in a progressive sequence of nine different diameters. However, Gunnarson does not show the tooth-workpiece relationship for any of the workpieces between points #1 and #2 and for any of the workpieces between points #2 and #3. Therefore, it is respectfully submitted that Gunnarson does not disclose every element of appellants' claimed invention and does not disclose these elements arranged as recited in the claims on appeal. Moreover, this shortcoming of Gunnarson further precludes the reference from being enabling with respect to placing appellants' claimed invention in the possession of one skilled in the art of the invention as required in accordance with well accepted legal authority. See, for example, *In re Paulsen*, 30 F.3d. 1475, 1479, 31 USPQ 2d 1671, 1673 (Fed. Cir. 1994) citing *In re Spada*, 911 F.2d 705, 708, 15 USPQ 2d 1655, 165 (Fed. Cir. 1990).

For the foregoing reasons, together with those set forth in appellants' Brief on Appeal, it is respectfully submitted that the claims on appeal patentably distinguish under 35 U.S.C. § 102(b) from the patent to Gunnarson, whereby reversal of the examiner's decision finally rejecting claims 1, 4 and 7 and a finding of patentability with respect to these claims is in order and is respectfully requested.

Respectfully submitted,



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